

City of Portland

Bureau of Development Services

Land Use Services Division

1900 SW Fourth Ave. Suite 5000 Portland, Oregon 97201 Telephone: 503-823-7300 TDD: 503-823-6868

FAX: 503-823-5630 www.portlandonline.com/bds

Date: September 12, 2008

To: Interested Person

From: Suzanne Savin, Land Use Services

503-823-5888 / Suzanne.Savin@ci.portland.or.us

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-152732 AD

GENERAL INFORMATION

Applicant: Mark Beirwagen

Stone Creek Building & Development

10117 SE Sunnyside #F502 Clackamas OR 97015

Owners: Roger L Carlson & Susan L Carlson

3641 SE Insley St Portland, OR 97202

Also Notify: Gino Streano

Lifetime Remodeling 39 SE 127th #3 Portland, OR 97233

Site Address: 3641 SE INSLEY ST

Legal Description: LOT 27 BLOCK 1, REED COLLEGE HTS

Tax Account No.: R694300520 **State ID No.:** 1S1E13AD 11400

Quarter Section: 3534

Neighborhood: Reed, contact Jody Kruilla at 503-475-1041.

Business District: None

District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.

Plan District: None

Zoning: R7 (R5), Single-Dwelling Residential 7,000 with Comprehensive Plan

designation of Single-Dwelling Residential 5,000

Case Type: AD (Adjustment Review)

Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal:

The property owner is planning to construct an addition to the attached garage on the site. The garage is approximately 192 square feet in size (approximately 12 feet wide by 16 feet long), and is located at 4 feet from the east (side) property line. The proposed garage addition will extend northward from the rear (north) side of the garage, will be approximately 192 square feet in size, and will lengthen the east garage wall by an additional 16 feet – for a total east wall length of approximately 32 feet. The east wall and east eave of the proposed garage addition are proposed to be located at 4 feet and 3 feet, respectively, from the east (side) property line.

Zoning Code Section 33.110.220 (Setbacks) and Table 110-3 require a minimum side building setback of 5 feet. Section 33.110.220 allows minor projections such as eaves to project a maximum of 20 percent into a required minimum building setback, which would allow an eave to project 1 foot into the 5-foot side building setback and to be 4 feet from a side property line. The applicant is requesting an Adjustment to Section 33.110.220 and Table 110-3, to allow the east wall and east eave of the proposed garage addition to have minimum side setbacks of 4 feet and 3 feet, respectively, from the east property line.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are the Adjustment Approval Criteria of Section 33.805.040.A – F.

ANALYSIS

Site and Vicinity: The site is approximately 6,386 square feet in size, and is located on the north side of SE Insley Street, between SE Harold Court and SE 37th Avenue. The site contains a single-dwelling residence with an attached garage. Surrounding the site to the north, east, south and west are R7-zoned properties containing single-dwelling residences with attached or detached garages.

Zoning: The site lies within the R7 (Single-Dwelling Residential 7,000) zone. The site also lies within an area that the Comprehensive Plan has designated as R5 (Single-Dwelling Residential 5,000). The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **August 19, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Bureau of Parks-Forestry Division

The Bureau of Environmental Services (BES) responded that BES has no objections to the proposal. (Exhibit E-1)

The Site Development Section of BDS responded that Site Development has no objections to the requested land use review. (Exhibit E-2)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on August 19, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of Adjustments

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified: and

Findings: The applicant is requesting an Adjustment to Section 33.110.220 (Setbacks) and Table 110-3, to allow the east wall and east eave of the proposed garage addition to have minimum side setbacks of 4 feet and 3 feet, respectively, from the east (side) property line.

The purpose of the setbacks regulation, per Section 33.110.220.A, reads:

The setback regulations for buildings and garage entrances serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of houses in the city's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
- They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.

The applicant notes that the attached garage's east wall is presently 4 feet from the east property line; the proposed addition would extend the east wall approximately 16 feet north, at the same setback from the east property line. As shown on the applicant's Vicinity Plan (Exhibit C-1, attached), there are two properties that abut the site's east property line and thus would potentially be affected by the garage addition setback adjustment: 5325 SE 37th Avenue and 5315 SE 37th Avenue.

The property at 5325 SE 37th Avenue has a detached garage in its northwest corner, and a driveway adjacent to the subject site's east property line. The location of the detached garage will block much of the view of the proposed garage addition from the house at 5325 SE 37th Avenue, which will promote privacy. The location of the driveway and detached garage also establish a separation distance of approximately 18 feet between the house and the proposed garage addition on the subject site.

The house at 5315 SE 37th Avenue is approximately 20 feet west of the subject site's east property line, according to the applicant's Vicinity Plan. Therefore, there will be a separation distance of approximately 24 feet between the east wall of the garage addition on the subject site, and the west wall of the house. The proposed garage

addition will not have windows on its east or north walls, and therefore the privacy of the property at 5315 SE 37th Avenue will be maintained.

Due to separation distance of the proposed garage addition from the residences on the two abutting properties to the east, as well as the lack of windows on the garage addition's east wall, the setback of the proposed garage addition will maintain light, air, separation for fire protection, and access for fire fighting. The setback of the proposed garage addition will also promote a reasonable relationship between residences, and promote options for privacy.

In addition, as shown in GIS aerial photo information and verified at a Staff site visit, there are several other garages in the immediate area (both detached and attached) that appear to have setbacks of less than 5 feet from side and/or rear property lines. Therefore, the setback of the proposed garage addition is consistent with the general placement of garages in the neighborhood.

For the above reasons, the proposed setback of the garage addition from the east property line will equally meet the purpose of the Setbacks regulation. This criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The proposal is in a residential zone. The proposed garage addition, which will be located on the north side of the garage furthest from the street, will not be visible from the street. Therefore, the proposed adjustment to garage addition setback will not significantly detract from the livability or appearance of the residential area.

This criterion is met.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one adjustment is being requested, therefore this criterion is not applicable.

D. City-designated scenic resources and historic resources are preserved; and

Findings: The site does not contain any city-designated scenic or historic resources, therefore this criterion is not applicable.

E. Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: No impacts are expected to result from the adjustment, so no mitigation is warranted. This criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

Findings: The site is not within an environmental zone, therefore this criterion is not applicable.

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant has requested an Adjustment to allow the east wall and east eave of the proposed garage addition to have minimum side setbacks of 4 feet and 3 feet, respectively, from the east property line. The applicant has provided information to demonstrate that this adjustment will comply with the Adjustment Approval Criteria, and therefore the adjustment can be approved, per the plans and elevations. Approval of building permits is still required, after the decision is final and has been recorded with Multnomah County.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.110.220 (Setbacks) and Table 110-3, to allow the east wall and east eave of the proposed garage addition to have minimum side setbacks of 4 feet and 3 feet, respectively, from the east property line, per the approved plans, Exhibits C-2 through C-3, signed and dated September 10, 2008, subject to the following conditions:

A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.2-C.3. The sheets on which this information appears must be labeled, "Proposal and design_as approved in Case File # LU 08-152732 AD."

Decision rendered by:

_ on September 10, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: September 12, 2008

Staff Planner: Suzanne Savin

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on August 6, 2008, and was determined to be complete on August 15, 2008.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on August 6, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information

satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on September 26, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

• Unless appealed, The final decision may be recorded on or after **September 29, 2008** – (the day following the last day to appeal).

• A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034 For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

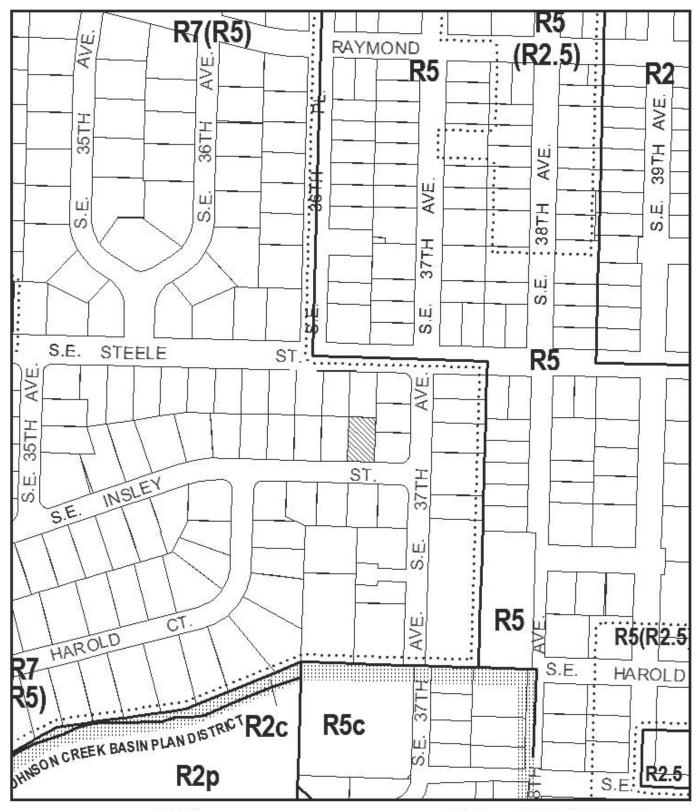
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Vicinity Plan (attached)
 - 2. Site Plan (attached)
 - 3. North and East Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Site Development Review Section of BDS
 - 3. "No concerns" responses from Bureau of Transportation Engineering and Development Review, Water Bureau, Fire Bureau, Bureau of Parks Forestry Division

- F. Correspondence:
 - 1. No correspondence received
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).

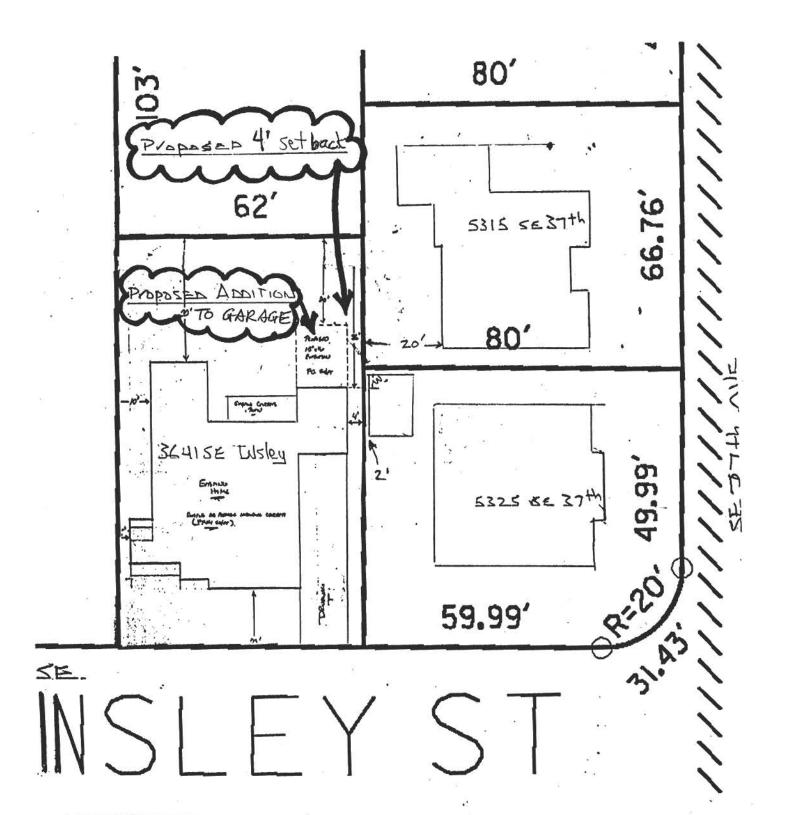


ZONING Site



NORTH

File No	LU 08-152732 AD
1/4 Section	3534
Scale_	
	1S1E13AD 11400
Exhibit _	B (Aug 07,2008)



VICINITY PLAN

LU 08-152732AD

Exhibit C-1

LU08-151732 AD

